

**HOUSE BILL No. 2447**

By Committee on Judiciary

1-16

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1 AN ACT concerning courts; relating to use of two-way electronic audio-  
2 visual communication; amending K.S.A. 12-4402, 12-4404, 12-4408,  
3 22-2803 and 22-3205 and K.S.A. 2019 Supp. 12-4213, 22-2802, 22-  
4 3208, 22-3405, 38-2203, 38-2343, 38-2344 and 60-243 and repealing  
5 the existing sections.  
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2019 Supp. 12-4213 is hereby amended to read as  
9 follows: 12-4213. (a) Any person arrested by a law enforcement officer  
10 shall be taken immediately by the law enforcement officer to the police  
11 station of the city or the office in the city designated by the municipal  
12 judge. At that time, the person shall have the right to post bond for the  
13 person's appearance, in accordance with K.S.A. 12-4301 and 12-4302, and  
14 amendments thereto, except as hereinafter provided.

15 (b) A law enforcement officer may detain a person arrested for  
16 violation of a municipal ordinance in protective custody for a period not to  
17 exceed six hours, including custody in a city or county jail, if such officer  
18 has probable cause to believe that: (1) Such person may cause injury to  
19 oneself or others, or damage to property; and (2) there is no responsible  
20 person or institution to which such person might be released. Any person  
21 so held in protective custody shall be permitted to consult with counsel or  
22 other persons who may act on such person's behalf. Such person held in  
23 protective custody for six hours shall be given an opportunity to post bond  
24 for such person's appearance in the municipal court.

25 (c) Any person held in custody pursuant to the provisions of this  
26 section, and who has not made bond for such person's appearance, may be  
27 held in custody until the earliest practical time for such person's  
28 appearance in municipal court upon a warrant being issued by the  
29 municipal court in accordance with K.S.A. 12-4209, and amendments  
30 thereto. *Such appearance may be in person or by two-way electronic*  
31 *audio-visual communication between the defendant and the judge.*

32 (d) Any person who remains in custody for 48 hours pursuant to the  
33 provisions of this section after arrest, and who is awaiting a first  
34 appearance before a municipal judge in the absence of a warrant being

1 issued, shall be released on the person's personal recognizance. Bond shall  
2 be set within 18 hours of the person being placed in custody.

3 ***(e) All existing ordinances and charter ordinances relating to the***  
4 ***use of two-way electronic audio-visual communication in municipal***  
5 ***court shall remain in effect until amended or repealed by such city.***

6 Sec. 2. K.S.A. 12-4402 is hereby amended to read as follows: 12-  
7 4402. ***(a)*** Subject to the provisions of K.S.A. 12-4209, and amendments  
8 thereto, the municipal judge may compel the appearance of an accused  
9 person. In addition to the procedures provided in K.S.A. 12-4305, and  
10 amendments thereto, the municipal judge, ~~upon request,~~ may permit  
11 appearance, pleas and satisfaction of the judgment and sentence of the  
12 court by counsel, *by two-way electronic audio-visual communication* or by  
13 mail.

14 ***(b) All existing ordinances and charter ordinances relating to the***  
15 ***use of two-way electronic audio-visual communication in municipal***  
16 ***court shall remain in effect until amended or repealed by such city.***

17 Sec. 3. K.S.A. 12-4404 is hereby amended to read as follows: 12-  
18 4404. ***(a)*** Arraignment shall be conducted in open court, *or by two-way*  
19 *electronic audio-visual communication between the defendant and the*  
20 *judge,* by stating to the accused person the substance of the charge and  
21 calling upon the accused to plead thereto. Arraignment for purposes of  
22 accepting a plea of not guilty may *also* be accomplished by telephone,  
23 mail or appearance by counsel.

24 ***(b) All existing ordinances and charter ordinances relating to the***  
25 ***use of two-way electronic audio-visual communication in municipal***  
26 ***court shall remain in effect until amended or repealed by such city.***

27 Sec. 4. K.S.A. 12-4408 is hereby amended to read as follows: 12-  
28 4408. ***(a)*** The Kansas code of criminal procedure shall govern, insofar as  
29 applicable, the filing and disposition of motions. Motions may be oral or  
30 written. *Any nonevidentiary hearing conducted by the court to determine*  
31 *the merits of any motion may be conducted by two-way electronic audio-*  
32 *visual communication between the defendant and the defendant's counsel*  
33 *in the courtroom, unless good cause is shown why such audio-visual*  
34 *communication should not be utilized.*

35 ***(b) All existing ordinances and charter ordinances relating to the***  
36 ***use of two-way electronic audio-visual communication in municipal***  
37 ***court shall remain in effect until amended or repealed by such city.***

38 Sec. 5. K.S.A. 2019 Supp. 22-2802 is hereby amended to read as  
39 follows: 22-2802. ~~(+)~~***(a)*** Any person charged with a crime shall, at the  
40 person's first appearance before a magistrate, be ordered released pending  
41 preliminary examination or trial upon the execution of an appearance bond  
42 in an amount specified by the magistrate and sufficient to assure the  
43 appearance of such person before the magistrate when ordered and to

1 assure the public safety. If the person is being bound over for a felony, the  
2 bond shall also be conditioned on the person's appearance in the district  
3 court or by way of a two-way electronic—~~audio-video~~ *audio-visual*  
4 communication as provided in subsection—~~(14)~~ *(n)* at the time required by  
5 the court to answer the charge against such person and at any time  
6 thereafter that the court requires. Unless the magistrate makes a specific  
7 finding otherwise, if the person is being bonded out for a person felony or  
8 a person misdemeanor, the bond shall be conditioned on the person being  
9 prohibited from having any contact with the alleged victim of such offense  
10 for a period of at least 72 hours. The magistrate may impose such of the  
11 following additional conditions of release as will reasonably assure the  
12 appearance of the person for preliminary examination or trial:

13 ~~(a)~~*(1)* Place the person in the custody of a designated person or  
14 organization agreeing to supervise such person;

15 ~~(b)~~*(2)* place restrictions on the travel, association or place of abode of  
16 the person during the period of release;

17 ~~(c)~~*(3)* impose any other condition deemed reasonably necessary to  
18 assure appearance as required, including a condition requiring that the  
19 person return to custody during specified hours;

20 ~~(d)~~*(4)* place the person under a house arrest program pursuant to  
21 K.S.A. 2019 Supp. 21-6609, and amendments thereto; or

22 ~~(e)~~*(5)* place the person under the supervision of a court services  
23 officer responsible for monitoring the person's compliance with any  
24 conditions of release ordered by the magistrate. The magistrate may order  
25 the person to pay for any costs associated with the supervision provided by  
26 the court services department in an amount not to exceed \$15 per week of  
27 such supervision. The magistrate may also order the person to pay for all  
28 other costs associated with the supervision and conditions for compliance  
29 in addition to the \$15 per week.

30 ~~(2)~~*(b)* In addition to any conditions of release provided in subsection  
31 ~~(1)~~*(a)*, for any person charged with a felony, the magistrate may order  
32 such person to submit to a drug and alcohol abuse examination and  
33 evaluation in a public or private treatment facility or state institution and,  
34 if determined by the head of such facility or institution that such person is  
35 a drug or alcohol abuser or is incapacitated by drugs or alcohol, to submit  
36 to treatment for such drug or alcohol abuse, as a condition of release.

37 ~~(3)~~*(c)* The appearance bond shall be executed with sufficient solvent  
38 sureties who are residents of the state of Kansas, unless the magistrate  
39 determines, in the exercise of such magistrate's discretion, that requiring  
40 sureties is not necessary to assure the appearance of the person at the time  
41 ordered.

42 ~~(4)~~*(d)* A deposit of cash in the amount of the bond may be made in  
43 lieu of the execution of the bond pursuant to subsection—~~(3)~~ *(c)*. Except as

1 provided in subsection ~~(5)~~ (e), such deposit shall be in the full amount of  
2 the bond and in no event shall a deposit of cash in less than the full amount  
3 of bond be permitted. Any person charged with a crime who is released on  
4 a cash bond shall be entitled to a refund of all moneys paid for the cash  
5 bond, after deduction of any outstanding restitution, costs, fines and fees,  
6 after the final disposition of the criminal case, if the person complies with  
7 all requirements to appear in court. The court may not exclude the option  
8 of posting bond pursuant to subsection ~~(3)~~(c).

9 ~~(5)~~(e) Except as provided further, the amount of the appearance bond  
10 shall be the same whether executed as described in subsection ~~(3)~~ (c) or  
11 posted with a deposit of cash as described in subsection ~~(4)~~ (d). When the  
12 appearance bond has been set at \$2,500 or less and the most serious charge  
13 against the person is a misdemeanor, a severity level 8, 9 or 10 nonperson  
14 felony, a drug severity level 4 felony committed prior to July 1, 2012, a  
15 drug severity level 5 felony committed on or after July 1, 2012, or a  
16 violation of K.S.A. 8-1567, and amendments thereto, the magistrate may  
17 allow the person to deposit cash with the clerk in the amount of 10% of the  
18 bond, provided the person meets at least the following qualifications:

19 ~~(A)~~(1) Is a resident of the state of Kansas;

20 ~~(B)~~(2) has a criminal history score category of G, H or I;

21 ~~(C)~~(3) has no prior history of failure to appear for any court  
22 appearances;

23 ~~(D)~~(4) has no detainer or hold from any other jurisdiction;

24 ~~(E)~~(5) has not been extradited from, and is not awaiting extradition  
25 to, another state; and

26 ~~(F)~~(6) has not been detained for an alleged violation of probation.

27 ~~(6)~~(f) In the discretion of the court, a person charged with a crime  
28 may be released upon the person's own recognizance by guaranteeing  
29 payment of the amount of the bond for the person's failure to comply with  
30 all requirements to appear in court. The release of a person charged with a  
31 crime upon the person's own recognizance shall not require the deposit of  
32 any cash by the person.

33 ~~(7)~~(g) The court shall not impose any administrative fee.

34 ~~(8)~~(h) In determining which conditions of release will reasonably  
35 assure appearance and the public safety, the magistrate shall, on the basis  
36 of available information, take into account: The nature and circumstances  
37 of the crime charged; the weight of the evidence against the defendant;  
38 whether the defendant is lawfully present in the United States; the  
39 defendant's family ties, employment, financial resources, character, mental  
40 condition, length of residence in the community, record of convictions,  
41 record of appearance or failure to appear at court proceedings or of flight  
42 to avoid prosecution; the likelihood or propensity of the defendant to  
43 commit crimes while on release, including whether the defendant will be

1 likely to threaten, harass or cause injury to the victim of the crime or any  
2 witnesses thereto; and whether the defendant is on probation or parole  
3 from a previous offense at the time of the alleged commission of the  
4 subsequent offense.

5 ~~(9)~~(i) The appearance bond shall set forth all of the conditions of  
6 release.

7 ~~(10)~~(j) A person for whom conditions of release are imposed and who  
8 continues to be detained as a result of the person's inability to meet the  
9 conditions of release shall be entitled, upon application, to have the  
10 conditions reviewed without unnecessary delay by the magistrate who  
11 imposed them. If the magistrate who imposed conditions of release is not  
12 available, any other magistrate in the county may review such conditions.

13 ~~(11)~~(k) A magistrate ordering the release of a person on any  
14 conditions specified in this section may at any time amend the order to  
15 impose additional or different conditions of release. If the imposition of  
16 additional or different conditions results in the detention of the person, the  
17 provisions of subsection ~~(10)~~ (j) shall apply.

18 ~~(12)~~(l) Statements or information offered in determining the  
19 conditions of release need not conform to the rules of evidence. No  
20 statement or admission of the defendant made at such a proceeding shall  
21 be received as evidence in any subsequent proceeding against the  
22 defendant.

23 ~~(13)~~(m) The appearance bond and any security required as a condition  
24 of the defendant's release shall be deposited in the office of the magistrate  
25 or the clerk of the court where the release is ordered. If the defendant is  
26 bound to appear before a magistrate or court other than the one ordering  
27 the release, the order of release, together with the bond and security shall  
28 be transmitted to the magistrate or clerk of the court before whom the  
29 defendant is bound to appear.

30 ~~(14)~~(n) Proceedings before a magistrate as provided in this section to  
31 determine the release conditions of a person charged with a crime,  
32 including release upon execution of an appearance bond, may be  
33 conducted by two-way electronic ~~audio-video~~ *audio-visual* communication  
34 between the defendant and the judge in lieu of personal presence of the  
35 defendant or defendant's counsel in the courtroom ~~in the discretion of the~~  
36 ~~court~~, *unless good cause is shown why such audio-visual communication*  
37 *should not be utilized.* The defendant may be accompanied by the  
38 defendant's counsel. ~~The defendant shall be informed of the defendant's~~  
39 ~~right to be personally present in the courtroom during such proceeding if~~  
40 ~~the defendant so requests. Exercising the right to be present shall in no~~  
41 ~~way prejudice the defendant.~~

42 ~~(15)~~(o) The magistrate may order the person to pay for any costs  
43 associated with the supervision of the conditions of release of the

1 appearance bond in an amount not to exceed \$15 per week of such  
2 supervision. As a condition of sentencing under K.S.A. 2019 Supp. 21-  
3 6604, and amendments thereto, the court may impose the full amount of  
4 any such costs in addition to the \$15 per week, including, but not limited  
5 to, costs for treatment and evaluation under subsection-~~(2)~~ (b).

6 Sec. 6. K.S.A. 22-2803 is hereby amended to read as follows: 22-  
7 2803. A person who remains in custody after review of such person's  
8 application pursuant to ~~subsection (9) or (10)~~ of K.S.A. 22-2802(j) or (k),  
9 and amendments thereto, by a district magistrate judge may apply to a  
10 district judge of the judicial district in which the charge is pending to  
11 modify the order fixing conditions of release. Such motion shall be  
12 determined promptly.

13 Sec. 7. K.S.A. 22-3205 is hereby amended to read as follows: 22-  
14 3205. (a) Arraignment shall be conducted in open court and shall consist of  
15 reading the complaint, information or indictment to the defendant or  
16 stating to the defendant the substance of the charge and calling upon the  
17 defendant to plead thereto. The defendant shall be given a copy of the  
18 indictment or information before the defendant is called upon to plead.  
19 Except as provided in subsection (b), if the crime charged is a felony, the  
20 defendant must be personally present for arraignment; if a misdemeanor,  
21 with the approval of the court, the defendant may appear by counsel. The  
22 court may direct any officer who has custody of the defendant to bring the  
23 defendant before the court to be arraigned.

24 (b) Arraignment *at which the defendant stands mute or enters a not*  
25 *guilty plea* may be conducted by two-way electronic-~~audio-video~~ *audio-*  
26 *visual* communication between the defendant and the judge in lieu of  
27 personal presence of the defendant or the defendant's counsel in the  
28 courtroom ~~in the discretion of the court~~, *unless good cause is shown why*  
29 *such audio-visual communication should not be utilized*. The defendant  
30 may be accompanied by the defendant's counsel during such arraignment.  
31 ~~The defendant shall be informed of the defendant's right to be personally~~  
32 ~~present in the courtroom during arraignment. Exercising the right to be~~  
33 ~~present shall in no way prejudice the defendant.~~

34 (c) The court shall ensure that the defendant has been processed and  
35 fingerprinted pursuant to K.S.A. 21-2501; and 21-2501a, and amendments  
36 thereto.

37 Sec. 8. K.S.A. 2019 Supp. 22-3208 is hereby amended to read as  
38 follows: 22-3208. ~~(+)~~(a) Pleadings in criminal proceedings shall be the  
39 complaint, information or indictment, the bill of particulars when ordered,  
40 and the pleas of not guilty, guilty or with the consent of the court, nolo  
41 contendere. All other pleas, demurrers and motions to quash are abolished  
42 and defenses and objections raised before trial which heretofore could  
43 have been raised by one or more of them shall be raised only by motion to

1 dismiss or to grant appropriate relief.

2 (2)(b) Any defense or objection which is capable of determination  
3 without the trial of the general issue may be raised before trial by motion.

4 (3)(c) Defenses and objections based on defects in the institution of  
5 the prosecution or in the complaint, information or indictment other than  
6 that it fails to show jurisdiction in the court or to charge a crime may be  
7 raised only by motion before trial. The motion shall include all such  
8 defenses and objections then available to the defendant. Failure to present  
9 any such defense or objection as herein provided constitutes a waiver  
10 thereof, but the court for cause shown may grant relief from the waiver.  
11 Lack of jurisdiction or the failure of the complaint, information or  
12 indictment to charge a crime shall be noticed by the court at any time  
13 during the pendency of the proceeding.

14 (4)(d) The motion to dismiss shall be made at any time prior to  
15 arraignment or within 21 days after the plea is entered. The period for  
16 filing such motion may be enlarged by the court when it shall find that the  
17 grounds therefor were not known to the defendant and could not with  
18 reasonable diligence have been discovered by the defendant within the  
19 period specified herein. A plea of guilty or a consent to trial upon a  
20 complaint, information or indictment shall constitute a waiver of defenses  
21 and objections based upon the institution of the prosecution or defects in  
22 the complaint, information or indictment other than it fails to show  
23 jurisdiction in the court or to charge a crime.

24 (5)(e) A motion before trial raising defenses or objections to  
25 prosecution shall be determined before trial unless the court orders that it  
26 be deferred for determination at the trial.

27 (6)(f) If a motion is determined adversely to the defendant, such  
28 defendant shall then plead if such defendant had not previously pleaded. A  
29 plea previously entered shall stand. If the court grants a motion based on a  
30 defect in the institution of the prosecution or in the complaint, information  
31 or indictment, it may also order that the defendant be held in custody or  
32 that the defendant's appearance bond be continued for a specified time not  
33 exceeding one day pending the filing of a new complaint, information or  
34 indictment.

35 (7)(g) Any *nonevidentiary* hearing conducted by the court to  
36 determine the merits of any motion may be conducted by two-way  
37 electronic-audio-video ~~audio-visual~~ communication between the defendant  
38 and defendant's counsel in lieu of personal presence of the defendant and  
39 defendant's counsel in the courtroom ~~in the discretion of the court. The~~  
40 ~~defendant shall be informed of the defendant's right to be personally~~  
41 ~~present in the courtroom during such hearing if the defendant so requests.~~  
42 ~~Exercising the right to be present shall in no way prejudice the defendant,~~  
43 ~~unless good cause is shown why such audio-visual communication should~~

1 *not be utilized.*

2 Sec. 9. K.S.A. 2019 Supp. 22-3405 is hereby amended to read as  
3 follows: 22-3405. (a) The defendant in a felony case shall be present at ~~the~~  
4 *any* arraignment *in which a no contest or guilty plea is entered*, at every  
5 stage of the trial including the impaneling of the jury and the return of the  
6 verdict, and at the imposition of sentence, except as otherwise provided by  
7 law. In prosecutions for crimes not punishable by death or life without the  
8 possibility of parole, the defendant's voluntary absence after the trial has  
9 been commenced in such person's presence shall not prevent continuing  
10 the trial to and including the return of the verdict. A corporation may  
11 appear by counsel for all purposes.

12 (b) The defendant must be present, either personally or by counsel, at  
13 every stage of the trial of traffic infraction, cigarette or tobacco infraction  
14 and misdemeanor cases.

15 Sec. 10. K.S.A. 2019 Supp. 38-2203 is hereby amended to read as  
16 follows: 38-2203. (a) Proceedings concerning any child who may be a  
17 child in need of care shall be governed by this code, except in those  
18 instances when the court knows or has reason to know that an Indian child  
19 is involved in the proceeding, in which case, the Indian child welfare act of  
20 1978, 25 U.S.C. § 1901 et seq., applies. The Indian child welfare act may  
21 apply to: The filing to initiate a child in need of care proceeding, K.S.A.  
22 2019 Supp. 38-2234, and amendments thereto; ex parte custody orders,  
23 K.S.A. 2019 Supp. 38-2242, and amendments thereto; temporary custody  
24 hearing, K.S.A. 2019 Supp. 38-2243, and amendments thereto;  
25 adjudication, K.S.A. 2019 Supp. 38-2247, and amendments thereto;  
26 burden of proof, K.S.A. 2019 Supp. 38-2250, and amendments thereto;  
27 disposition, K.S.A. 2019 Supp. 38-2255, and amendments thereto;  
28 permanency hearings, K.S.A. 2019 Supp. 38-2264, and amendments  
29 thereto; termination of parental rights, K.S.A. 2019 Supp. 38-2267, 38-  
30 2268 and 38-2269, and amendments thereto; establishment of permanent  
31 custodianship, K.S.A. 2019 Supp. 38-2268 and 38-2272, and amendments  
32 thereto; the placement of a child in any foster, pre-adoptive and adoptive  
33 home and the placement of a child in a guardianship arrangement under  
34 article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments  
35 thereto.

36 (b) Subject to the uniform child custody jurisdiction and enforcement  
37 act, K.S.A. 2019 Supp. 23-37,101 through 23-37,405, and amendments  
38 thereto, the district court shall have original jurisdiction of proceedings  
39 pursuant to this code.

40 (c) The court acquires jurisdiction over a child by the filing of a  
41 petition pursuant to this code or upon issuance of an ex parte order  
42 pursuant to K.S.A. 2019 Supp. 38-2242, and amendments thereto. When  
43 the court acquires jurisdiction over a child in need of care, jurisdiction may



1 continue until the child has: (1) Become 18 years of age, or until June 1 of  
2 the school year during which the child became 18 years of age if the child  
3 is still attending high school unless there is no court approved transition  
4 plan, in which event jurisdiction may continue until a transition plan is  
5 approved by the court or until the child reaches the age of 21; (2) been  
6 adopted; or (3) been discharged by the court. Any child 18 years of age or  
7 over may request, in writing to the court, that the jurisdiction of the court  
8 cease. The court shall give notice of the request to all parties and interested  
9 parties and 30 days after receipt of the request, jurisdiction will cease.

10 (d) When it is no longer appropriate for the court to exercise  
11 jurisdiction over a child, the court, upon its own motion or the motion of a  
12 party or interested party at a hearing or upon agreement of all parties or  
13 interested parties, shall enter an order discharging the child. Except upon  
14 request of the child pursuant to subsection (c), the court shall not enter an  
15 order discharging a child until June 1 of the school year during which the  
16 child becomes 18 years of age if the child is in an out-of-home placement,  
17 is still attending high school and has not completed the child's high school  
18 education.

19 (e) When a petition is filed under this code, a person who is alleged to  
20 be under 18 years of age shall be presumed to be under that age for the  
21 purposes of this code, unless the contrary is proved.

22 (f) A court's order issued in a proceeding pursuant to this code, shall  
23 take precedence over such orders in a civil custody case, a proceeding  
24 under article 31 of chapter 60 of the Kansas Statutes Annotated, and  
25 amendments thereto, protection from abuse act, or a comparable case in  
26 another jurisdiction, except as provided by K.S.A. 2019 Supp. 23-37,101  
27 through 23-37,405, and amendments thereto, uniform child custody  
28 jurisdiction and enforcement act.

29 (g) *In any proceeding under this code, the court may allow a child **or***  
30 *parent to appear by means of two-way electronic audio-visual*  
31 *communication in lieu of personal presence of the child **or** parent.*

32 Sec. 11. K.S.A. 2019 Supp. 38-2343 is hereby amended to read as  
33 follows: 38-2343. (a) *Basis for extended detention; findings and*  
34 *placement.* Whenever a juvenile is taken into custody, the juvenile shall  
35 not remain in detention for more than 48 hours, excluding Saturdays,  
36 Sundays, legal holidays; and days on which the office of the clerk of the  
37 court is not accessible, from the time the initial detention was imposed,  
38 unless the court determines after hearing, within the 48-hour period, that  
39 further detention is warranted based on the criteria in K.S.A. 2019 Supp.  
40 38-2331, and amendments thereto.

41 (b) (1) If the juvenile is in custody on the basis of a new offense  
42 which would be a felony or misdemeanor if committed by an adult and no  
43 prior judicial determination of probable cause has been made, the court

1 shall determine whether there is probable cause to believe that the juvenile  
2 has committed the alleged offense.

3 (2) In the absence of the necessary findings, the court shall order the  
4 juvenile released.

5 (c) *Waiver of detention hearing.* The detention hearing may be  
6 waived in writing by the juvenile and the juvenile's attorney with approval  
7 of the court. The right to a detention hearing may be reasserted in writing  
8 by the juvenile or the juvenile's attorney or parent at anytime not less than  
9 48 hours prior to trial.

10 (d) *Notice of hearing.* Whenever it is determined that a detention  
11 hearing is required the court shall immediately set the time and place for  
12 the hearing. Except as otherwise provided by K.S.A. 2019 Supp. 38-  
13 2332(c)(1), and amendments thereto, notice of the detention hearing shall  
14 be given at least 24 hours prior to the hearing, unless waived.

15 When there is insufficient time to give written notice, oral notice may  
16 be given and is completed upon filing a certificate of oral notice with the  
17 clerk.

18 (e) *Attorney for juvenile.* At the time set for the detention hearing if  
19 no retained attorney is present to represent the juvenile, the court shall  
20 appoint an attorney, and may recess the hearing for 24 hours, excluding  
21 Saturdays, Sundays and legal holidays, to obtain attendance of the attorney  
22 appointed.

23 (f) *Hearing.* (1) The detention hearing is an informal procedure to  
24 which the ordinary rules of evidence do not apply. The court may consider  
25 affidavits, detention risk assessment tool results, professional reports and  
26 representations of counsel to make the necessary findings, if the court  
27 determines that these materials are sufficiently reliable.

28 (2) If probable cause to believe that the juvenile has committed an  
29 alleged offense is contested, the court shall allow the opportunity to  
30 present contrary evidence or information upon request.

31 (3) If the court orders the juvenile to be detained in a juvenile  
32 detention facility, the court shall record the specific findings of fact upon  
33 which the order is based, including any reasons for overriding a detention  
34 risk assessment tool score.

35 (g) *Rehearing.* (1) If detention is ordered and the parent was not  
36 notified of the hearing and did not appear and later requests a rehearing,  
37 the court shall rehear the matter without unnecessary delay.

38 (2) Within 14 days of the detention hearing, if the juvenile had not  
39 previously presented evidence regarding the determination of probable  
40 cause to believe that the juvenile has committed an offense, the juvenile  
41 may request a rehearing to contest the determination of probable cause to  
42 believe that the juvenile has committed an offense. The rehearing request  
43 shall identify evidence or information that the juvenile could not

1 reasonably produce at the detention hearing. If the court determines that  
2 the evidence or information could not reasonably be produced at the  
3 detention hearing, the court shall rehear the matter without unnecessary  
4 delay.

5 (h) ~~Audio-video~~ *Audio-visual communications*. All hearings conducted  
6 pursuant to this section may be conducted by two-way electronic ~~audio-~~  
7 ~~video~~ *audio-visual* communication between the juvenile and the judge in  
8 lieu of personal presence of the juvenile or the juvenile's attorney in the  
9 courtroom from any location within Kansas in the discretion of the court.  
10 The juvenile may be accompanied by the juvenile's attorney during such  
11 proceedings or the juvenile's attorney may be personally present in court as  
12 long as a means of confidential communication between the juvenile and  
13 the juvenile's attorney is available.

14 (i) *Review hearing*. The court shall hold a detention review hearing at  
15 least every 14 days that a juvenile is in detention to determine if the  
16 juvenile should continue to be held in detention. The provisions of this  
17 subsection shall not apply if the juvenile is charged with a crime that, if  
18 committed by an adult, would constitute an off-grid felony or a nondrug  
19 severity level 1 through 4 person felony. The review hearings provided in  
20 this subsection are not required for a juvenile offender held in detention  
21 awaiting disposition in such juvenile offender's case pursuant to K.S.A.  
22 2019 Supp. 38-2360(f), and amendments thereto.

23 Sec. 12. K.S.A. 2019 Supp. 38-2344 is hereby amended to read as  
24 follows: 38-2344. (a) When the juvenile appears without an attorney in  
25 response to a complaint, the court shall inform the juvenile of the  
26 following:

- 27 (1) The nature of the charges in the complaint;
- 28 (2) the right to hire an attorney of the juvenile's own choice;
- 29 (3) the duty of the court to appoint an attorney for the juvenile if no  
30 attorney is hired by the juvenile or parent;
- 31 (4) that the court may require the juvenile or parent to pay the  
32 expense of a court appointed attorney; and
- 33 (5) the right to be offered an immediate intervention pursuant to  
34 K.S.A. 2019 Supp. 38-2346, and amendments thereto.

35 Upon request, the court shall give the juvenile or parent an opportunity  
36 to hire an attorney. If no request is made or the juvenile or parent is  
37 financially unable to hire an attorney, the court shall promptly appoint an  
38 attorney for the juvenile. The court shall afford the juvenile an opportunity  
39 to confer with the attorney before requiring the juvenile to plead to the  
40 allegations of the complaint.

41 (b) When the juvenile appears with an attorney in response to a  
42 complaint, the court shall require the juvenile to plead guilty, nolo  
43 contendere or not guilty to the allegations stated in the complaint, unless

1 there is an application for and approval of an immediate intervention  
2 program. Prior to making this requirement, the court shall inform the  
3 juvenile of the following:

- 4 (1) The nature of the charges in the complaint;
- 5 (2) the right of the juvenile to be presumed innocent of each charge;
- 6 (3) the right to jury trial without unnecessary delay;
- 7 (4) the right to confront and cross-examine witnesses appearing in  
8 support of the allegations of the complaint;
- 9 (5) the right to subpoena witnesses;
- 10 (6) the right of the juvenile to testify or to decline to testify; and
- 11 (7) the sentencing alternatives the court may select as the result of the  
12 juvenile being adjudicated a juvenile offender.

13 (c) If the juvenile pleads guilty to the allegations contained in a  
14 complaint or pleads nolo contendere, the court shall determine, before  
15 accepting the plea and entering a sentence:

- 16 (1) That there has been a voluntary waiver of the rights enumerated in  
17 subsections (b)(2), (3), (4), (5) and through (b)(6); and
- 18 (2) that there is a factual basis for the plea.

19 (d) If the juvenile pleads not guilty, the court shall schedule a time  
20 and date for trial to the court.

21 (e) First appearance may be conducted by two-way electronic ~~audio-~~  
22 ~~video~~ audio-visual communication between the juvenile and the judge in  
23 lieu of personal presence of the juvenile or the juvenile's attorney in the  
24 courtroom from any location within Kansas in the discretion of the court.  
25 The juvenile may be accompanied by the juvenile's attorney during such  
26 proceedings or the juvenile's attorney may be personally present in court as  
27 long as a means of confidential communication between the juvenile and  
28 the juvenile's attorney is available.

29 Sec. 13. K.S.A. 2019 Supp. 60-243 is hereby amended to read as  
30 follows: 60-243. (a) *Form and admissibility.* ~~At trial, the witness'~~  
31 ~~testimony must be taken in open court, unless otherwise provided by law.~~  
32 ~~For good cause in compelling circumstances and with appropriate~~  
33 ~~safeguards, the court may permit testimony in open court by~~  
34 ~~contemporaneous transmission from a different location~~ *Testimony by*  
35 *contemporaneous transmission from a different location may be allowed*  
36 *whenever any party requests the use of two-way electronic audio-visual*  
37 *communication by written notice at least seven days prior to the scheduled*  
38 *hearing or proceeding. Such notice shall include the name and internet*  
39 *protocol address of the witness who will testify by two-way electronic*  
40 *audio-visual communication and the date and time the witness will testify.*  
41 **The court may modify the notice period upon a showing of good cause.**  
42 **The supreme court may adopt rules to govern the administration of an**  
43 **oath to a witness who testifies by two-way electronic audio-visual**

1 **communication pursuant to this subsection.**

2 (b) *Scope of examination and cross-examination.* A party may  
3 examine any unwilling or hostile witness by leading questions. A party  
4 may call an adverse party or an officer, director or managing agent of a  
5 public or private corporation, a partnership or an association that is an  
6 adverse party, may examine the witness by leading questions and may  
7 contradict and impeach the witness as if the witness had been called by the  
8 adverse party. The witness may be contradicted and impeached by the  
9 adverse party, but may be cross-examined only on the subject matter of the  
10 witness' direct examination.

11 (c) *Record of excluded evidence.* In a jury trial, if an objection to a  
12 question to a witness is sustained, the examining attorney may make a  
13 specific offer of what the examining attorney expects to prove by the  
14 witness' answer. The offer must be made out of the jury's hearing. The  
15 court may add any further statement that clearly shows the character of the  
16 evidence, the form in which it was offered, the objection made and the  
17 ruling on the objection. In nonjury trials the same procedure may be  
18 followed, except that the court on request must take and report the  
19 evidence in full unless it clearly appears that the evidence is not admissible  
20 or is privileged.

21 (d) *Evidence on a motion.* When a motion relies on facts outside the  
22 record, the court may hear the matter on affidavits or on declarations  
23 pursuant to K.S.A. 53-601, and amendments thereto, or may hear it wholly  
24 or partly on oral testimony or on depositions.

25 (e) *Interpreter.* In accordance with K.S.A. 75-4351 through 75-4355d,  
26 and amendments thereto, the court may appoint an interpreter of its  
27 choosing; fix reasonable compensation to be paid from funds provided by  
28 law or, subject to the limitations in K.S.A. 75-4352 and 75-4355b, and  
29 amendments thereto, by one or more parties and tax the compensation as  
30 costs.

31 Sec. 14. K.S.A. 12-4402, 12-4404, 12-4408, 22-2803 and 22-3205  
32 and K.S.A. 2019 Supp. 12-4213, 22-2802, 22-3208, 22-3405, 38-2203, 38-  
33 2343, 38-2344 and 60-243 are hereby repealed.

34 Sec. 15. This act shall take effect and be in force from and after its  
35 publication in the statute book.